

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

SHADAYAH PEARSON,

Plaintiff,

v.

1:15 -CV-0545 (BKS/CFH)

CHIPOTLE MEXICAN GRILL OF COLORADO, *et. al.*,

Defendants.

APPEARANCES:

**Shadayah Pearson, *Plaintiff pro se*
Troy, NY**

HON. BRENDA K. SANNES, U. S. DISTRICT JUDGE

ORDER

On May 1, 2015, plaintiff Shadayah Pearson filed a pro se complaint under 42 U.S.C. § 1983 against Chipotle Mexican Grill of Colorado and district manager Houman Iskandani. (Dkt. No. 1).¹ Her complaint and motion for leave to proceed *in forma pauperis* (IFP) were referred to United States Magistrate Judge Christian Hummel. (Dkt. No. 2). On May 7, 2015, Magistrate Hummel issued a Report-Recommendation and Order, granting plaintiff's IFP application. (Dkt. No. 4). Following his review of the complaint under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A, Magistrate Hummel recommended that: (1) all claims against defendant Iskandani be dismissed, with prejudice, for failure to state a claim; and (2) that all claims against defendant Chipotle under 42 U.S.C. § 1983 be dismissed with prejudice, and that such claims be construed as

¹ The spelling of the district manager's last name is uncertain; plaintiff refers to him as "Iskandani" and "Iskandi." (Dkt. 1).

properly brought under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (Dkt. No. 4). Magistrate Hummel advised plaintiff that she had fourteen days to file objections to the report, and that the failure to object would preclude appellate review. (*Id.*) The Report-Recommendation and Order was served on plaintiff by regular mail on May 7, 2015, and no objections have been filed. (*Id.*).

Since no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court has reviewed the Report-Recommendation for clear error. *Petersen v. Astrue*, 2 F. Supp. 3d 223, 228-29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to the 1983 addition. Under this standard, "the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Id.* Having reviewed the Report-Recommendation and having found no clear error, it is hereby:

ORDERED that the Report-Recommendation (Dkt. No. 4) is **ADOPTED** in its entirety for the reasons stated therein; and it is further

ORDERED that the complaint against defendant Iskandani be **DISMISSED**, with prejudice, under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b) for failure to state a claim. Under 28 U.S.C. § 1367(c) , the Court declines to exercise jurisdiction over any state law claims that plaintiff may have against defendant Iskandani; and it is further

ORDERED that the Clerk of Court is directed to terminate defendant Iskandani as a party in this case; and it is further

ORDERED that all claims brought against defendant Chipotle under 42 U.S.C. § 1983 are **DISMISSED** with prejudice in accordance with 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), and such claims are construed as properly brought under Title VII of the Civil Rights

Act of 1964, as amended, 42 U.S.C. § 2000e et seq; and it is further

ORDERED that the Clerk shall issue a summons and forward it, along with a copy of the complaint, this Order and a packet containing General Order 25, to the United States Marshal for service upon the remaining defendant; and it is further

ORDERED that a response to the complaint be filed by the defendant or their counsel as provided for in the Federal Rules of Civil Procedure after service of process on the defendant; and it is further

ORDERED that all pleadings, motions and other documents relating to this action be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was served on all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a proper certificate of service will be stricken from the docket.** Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in her address; plaintiff's failure to do so will result in the dismissal of this action;** and it is further

ORDERED that the Clerk of the Court shall serve a copy of this Order upon plaintiff in accordance with the local rules.

IT IS SO ORDERED.

Dated: June 4, 2015
Syracuse, New York

A handwritten signature in black ink, reading "Brenda K. Sannes". The signature is written in a cursive style with a horizontal line underneath the name.

Brenda K. Sannes
U.S. District Judge